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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Steven S. Center

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EXAMINER

FISHER, MICHAEL J

ART UNIT

PAPER NUMBER

3689

NOTIFICATION DATE

DELIVERY MODE

07/21/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto33401@mwe.com

Office Action Summary	Application No. 10/054,106	Applicant(s) CENTER ET AL.	
	Examiner MICHAEL J. FISHER	Art Unit 3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/22/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 10-19 and 23-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 10-19 and 23-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 20 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Further, the claim ends with a semi-colon (;) and not a period (.), as it is unknown what is meant to be added, it will be rejected with claim 1 under art.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As the claim ends with a semi-colon, it appears that more limitations were intended and the examiner cannot know what is intended to be included

Further, it appears to the examiner that this claim appears to be intended to claim "**An apparatus for performing the method of claim 1**", this renders the claim vague and indefinite as it confuses the issue of whether the claim is meant to be an apparatus or a method claim, which different classes of claims are treated differently.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3,10-17,23-35,38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PAT 7,302,429 to Wanker.

As to claims 1,38,39 and, as best understood, 20, Wanker discloses a method for referring customers to a seller of goods and/or services (title), using a computer (fig 1), receiving customer information (col 2, lines 38-43), including contacts with prior dealers and their results (274, as best seen in fig 2F), using the computer to locate the dealers (202, fig 2A), the identity and location of the dealers (fig 2C), using historical data about contacts between a plurality of prospective customers and the dealer (fig 2G, in total but especially box 283), the reason is "located" (fig 2G), it could be servicing, there being no limitation to preclude such an action as the system is used for evaluating merchants,

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there are multiple dealers (306, fig 3), the system is used for all dealers, the merchants are displayed including their rankings (311, fig 3), Wanker further discloses using dealer location as a variable (col 7, lines 2-3).

Wanker does not, however, specifically teach using the system for automobile dealerships, specifically disclose getting contact information from the user or specifically disclose using the current user's prior contacts.

It would have been obvious to use the system for automobile dealers as they are merchants and to receive contact information from the user so they could be contacted and further, as the system is shown to take prior contacts of all kinds from customers, it would be obvious to use the current customer's prior contacts into account as the system is shown to do this in the aggregate and the current customer would be one of the "prior contacts" as disclosed.

As to claims 10,21, the system can be used more than once, thereby meeting the limitations as claimed.

As to claims 2,24, it would be obvious to use the customer's name as this is a good way to identify people.

As to claims 3,25, it would be obvious to use city and state information so the system wouldn't suggest a dealer far away from the customer (it would be most inobvious to suggest a Ford dealer in San Francisco, CA to a user in Miami, FL).

As to claims 11,29, the information is broken into sets (figs 2A-2G).

As to claims 12,26,30, the system lists all contacts for all reasons, thereby meeting the limitations as claimed.

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As to claims 13,31, the different sets of data (from figs 2A-2G) are displayed separately.

As to claims 14,32, the sets have links to each other (they are all connected via the same computer system).

As to claims 15,33, it would be obvious to display them in order of preference as this would allow the user to see them in their preferred order.

As to claims 16,17,34,35, Wanker does not teach a link for displaying map location, however, it is old and well known in the art to have an online map and direction generating site (such as www.randmacnally.com), therefore, it would have been obvious to one of ordinary skill in the art to have a link to a map site that gives directions to make it easier for the customer to get to the merchant.

As to claim 27, it would be obvious to order the results in types of contacts so as to give the user the best information. For instance, if the user is buying a car, they could be more interested in the sales than the service, and vice versa.

Claims 18,19,36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wanker as applied to claims 1-3,10-16,23-35,38 and 39 above, and further in view of US PAT 6,041,311 to Chislenko.

As to claims 18,19,36,37, Wanker does not teach using date of contact for ranking.

Chislenko discloses using the date of contact for preferences and giving the most recent preference because they may “drift” over time (col 5, lines 9-15).

It would have been obvious to one of ordinary skill in the art to modify the system as disclosed by Wanker with the dating scheme as taught by Chislenko as Chislenko

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discloses that opinions may change over time and this would make the suggestions more precise and accurate.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL J. FISHER whose telephone number is (571)272-6804. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael J Fisher/
Examiner, Art Unit 3689
MF
7/16/10